

STATE OF CALIFORNIA  
ENVIRONMENTAL PROTECTION AGENCY  
DEPARTMENT OF TOXIC SUBSTANCES CONTROL

In the Matter of:

Mel Bernie and Company, Inc.  
dba 1928 Jewelry Company  
3000 Empire Avenue  
Burbank, California 91504  
ID No. (CAD 048476683)

Respondent.

Docket HWCA SRPD01/02 NAE0-4260

STIPULATION AND ORDER

Health and Safety Code  
Section 25187

The State Department of Toxic Substances Control (Department) and Mel Bernie Co., Inc. dba 1928 Jewelry Company (Respondent) enter into this Stipulation and Order (Order) and agree as follows:

1. A dispute exists regarding the Enforcement Order issued by the Department on June 17, 2002. (Attached as Exhibit 1.)
2. The parties wish to avoid the expense of further litigation and to ensure prompt action to achieve the Schedule for Compliance below.
3. Jurisdiction exists pursuant to Health and Safety Code section 25187.
4. Respondent waives any right to a hearing in this matter.
5. This Order shall constitute full settlement of the violations alleged in the Enforcement Order, but does not limit the Department from taking appropriate enforcement action concerning other violations.
6. Respondent does not admit the violations alleged above, except as follows: Respondent admits the facts alleged above for the purposes of any subsequent action brought pursuant to the Hazardous Waste Control Law, Health and Safety Code section 25100 et seq., within 5 years of the date the violations occurred.

## SCHEDULE FOR COMPLIANCE

7. Respondent shall comply with the following:

7.1 Respondent hereby agrees to send two of its employees to the specified California Compliance School (Modules I through V). Attendance must be completed for Modules I through V and the Respondent must submit to the Department a Certificate of Satisfactory Completion issued by the California Compliance School within 185 days of the effective date of this Order.

7.2. Submittals: All submittals from Respondent pursuant to this Order shall be sent simultaneously to:

Mr. Charles A. McLaughlin, Chief  
State Oversight and Enforcement Branch  
Statewide Compliance Division  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

Mr. Jerry Munoz, Manager of Inspections  
Central Inspection Station  
Health Hazardous Materials Division  
County of Los Angeles Fire Department  
5825 Rickenbacker Road  
Commerce, California 90040

7.3. Communications: All approvals and decisions of the Department made regarding such submittals and notifications shall be communicated to Respondent in writing by a Branch Chief, Department of Toxic Substances Control, or his/her designee. No informal advice, guidance, suggestions, or comments by the Department regarding reports, plans, specifications, schedules, or any other writings by Respondent shall be construed to relieve Respondent of its obligation to obtain such formal approvals as may be required.

7.4. Department Review and Approval: If the Department determines that any report, plan, schedule, or other document submitted for approval pursuant to this Order fails to comply with the Order or fails to protect public health or safety or the environment, the Department may:

- a. Modify the document as deemed necessary and approve the document as modified; or
- b. Return the document to Respondent with recommended changes and a date by which Respondent must submit to the Department a revised document incorporating the recommended changes.

7.5. Compliance with Applicable Laws: Respondent shall carry out this Order in compliance with all local, State, and federal requirements, including but not limited to requirements to obtain permits and to assure worker safety.

7.6. Liability: Nothing in this Order shall constitute or be construed as a satisfaction or release from liability for any conditions or claims arising as a result of past, current, or future operations of Respondent, except as provided in this Order. Notwithstanding compliance with the terms of this Order, Respondent may be required to take further actions as are necessary to protect public health or welfare or the environment.

7.7. Government Liabilities: The State of California shall not be liable for injuries or damages to persons or property resulting from acts or omissions by Respondent or related parties specified in paragraph 9.3 in carrying out activities pursuant to this Order, nor shall the State of California be held as a party to any contract entered into by Respondent or its agents in carrying out activities pursuant to this Order.

7.8. Extension Requests: If Respondent is unable to perform any activity or submit any document within the time required under this Order, the Respondent may,

prior to expiration of the time, request an extension of time in writing. The extension request shall include a justification for the delay.

7.9. Extension Approvals: If the Department determines that good cause exists for an extension, it will grant the request and specify in writing a new compliance schedule.

### PAYMENTS

8. Within 30 days of the effective date of this Order, Respondent shall pay the Department a total of \$25,000 as a penalty. Respondent's check shall be made payable to Department of Toxic Substances Control, and shall be delivered together with the attached Payment Voucher to:

Department of Toxic Substances Control  
Accounting Office  
1001 I Street  
P. O. Box 806  
Sacramento, California 95812-0806

A photocopy of the check shall be sent simultaneously to:

Mr. Charles A. McLaughlin, Chief  
State Oversight and Enforcement Branch  
Statewide Compliance Division  
Department of Toxic Substances Control  
8800 Cal Center Drive  
Sacramento, California 95826-3200

Ms. Pearl Lattaker  
Deputy Attorney General  
Department of Justice  
Office of the Attorney General  
300 South Spring Street, Suite 5000  
Los Angeles, California 90013

Ms. Debra Schwartz, Staff Counsel  
Office of Legal Counsel and Investigations  
Department of Toxic Substances Control  
1011 Grandview Avenue  
Glendale, California 91201

If Respondent fails to make payment as provided above, Respondent agrees to pay interest at the rate established pursuant to Health and Safety Code section 25360.1 and to pay all costs incurred by the Department in pursuing collection including attorney's fees.

#### OTHER PROVISIONS

9.1. Additional Enforcement Actions: By agreeing to this Order, the Department does not waive the right to take further enforcement actions, except to the extent provided in this Order.

9.2. Penalties for Noncompliance: Failure to comply with the terms of this Order may subject Respondent to civil penalties and/or punitive damages for any costs incurred by the Department or other government agencies as a result of such failure, as provided by Health and Safety Code section 25188 and other applicable provisions of law.

9.3. Parties Bound: This Order shall apply to and be binding upon Respondent and its officers, directors, agents, receivers, trustees, employees, contractors, consultants, successors, and assignees, including but not limited to individuals, partners, and subsidiary and parent corporations, and upon the Department and any successor agency that may have responsibility for and jurisdiction over the subject matter of this Order.

9.4. Effective Date: The effective date of this Order is the date it is signed by the Department.

9.5. Integration: This agreement constitutes the entire agreement between the parties and may not be amended, supplemented, or modified, except as provided in this agreement.

9.6. Compliance with Waste Discharge Requirements: Respondent shall comply with all applicable waste discharge requirements issued by the State Water Resources Control Board or a California regional water quality control board.

Dated: February 21, 2005

original signed by William A. Harris  
\_\_\_\_\_  
Signature of Respondent's Representative

William A. Harris, CFO  
\_\_\_\_\_  
Typed or Printed Name and Title of  
Respondent's Representative

Dated: February 24, 2005

original signed by Charles A. McLaughlin  
\_\_\_\_\_  
Charles A. McLaughlin, Chief  
State Oversight and Enforcement Branch  
Statewide Compliance Division  
Department of Toxic Substances Control